

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT WINCHESTER

AARON HILL, <i>et al.</i> ,)	
)	
<i>Plaintiffs,</i>)	
)	Case No. 4:16-cv-117
v.)	
)	Judge Mattice
KIA MOTORS AMERICA, INC., <i>et al.</i> ,)	Magistrate Judge Steger
)	
<i>Defendants.</i>)	

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT WINCHESTER

ROGER DALE PARKS, <i>et al.</i> ,)	
)	
<i>Plaintiffs,</i>)	
)	Case No. 4:16-cv-118
v.)	
)	Judge Mattice
KIA MOTORS AMERICA, INC., <i>et al.</i> ,)	Magistrate Judge Steger
)	
<i>Defendants.</i>)	

KIA MOTORS CORPORATION’S MEMORANDUM IN SUPPORT OF
ITS MOTION FOR LEAVE TO FILE DOCUMENTS UNDER SEAL

Kia Motors Corporation (KMC), pursuant to Local rule 26.2 and Paragraph 5 of the protective order (Doc. 114), moves the Court for leave to file under seal Exhibits 19 and 20 to the memorandum in support of the motion for summary judgment filed by Kia Motors America, Inc. (KMA), and KMC on January 28, 2019 (Doc. 280, 281). Copies of these two documents have been temporarily placed in the court record as Exhibits 19 and 20 to the motion for leave to file under seal pending the Court’s ruling on that motion.

Argument

The two documents which KMC wishes to file under seal contain confidential information and trade secrets. KMC properly produced them with a confidential label. They are either the same or of a similar type to documents this Court already determined were confidential in its July 9, 2018 Order. Doc. 187.

Exhibit 19 to the memorandum (Doc. 281-19) will be KMC106-116, KMC's safety compliance testing for Federal Motor Vehicle Safety Standard 124, Accelerator Control Systems, 49 C.F.R. § 571.124. This Court has previously found that this document "contain[s] information that constitutes Defendants' trade secrets," and that this document should be sealed. Doc. 187, Page ID# 3835. Exhibit 20 to the memorandum (Doc. 281-20) will be KMC117-271, KMC's safety compliance testing for Federal Motor Vehicle Safety Standard 135, Light Vehicle Brake Systems, 49 C.F.R. § 571.135. It likewise contains information that constitutes KMC's trade secrets, and for the same reason, it should be sealed by the Court.

The public has a right of access to judicial records, but this right is not absolute. *Brown & Williamson Tobacco Corp. v. FTC*, 710 F.2d 1165, 1179 (6th Cir. 1983). A court evaluating whether to seal information must "balance the litigants' privacy interests against the public's right of access, recognizing our judicial system's strong presumption in favor of openness." *Rudd Equip. Co. v. John Deere Constr. & Forestry Co.*, 834 F.3d 589, 594 (6th Cir. 2016); *see also Shane Grp., Inc. v. Blue Cross Blue Shield of Mich.*, 825 F.3d 299, 305 (6th Cir. 2016). A court may seal documents when compelling reasons overcome the public's right of access. *Rudd Equip.*, 834 F.3d at 594. Documents that "influence or underpin" a court's decision, which usually are "a small subset of all discovery," become part of the public record unless "they meet the definition of trade secrets or other categories of bona fide long-term confidentiality." *Baxter Intern., Inc. v. Abbott Labs.*, 297 F.3d 544, 545 (7th Cir. 2002).

For these reasons, the Court should direct that Exhibits 19 and 20 to the memorandum in support of KMA's and KMC's motion for summary judgment be filed under seal.

Dated this 29th day of January, 2019.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of January, 2019, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

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